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ORIGINAL

August 4, 2005

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FILED VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

**Re: Request for Waiver of Checklist Facility Construction Deadline
KXGN-TV, Glendive, Montana (FIN-24287)
MB Docket No. 03-15**

Dear Ms. Dortch:

By this letter, Glendive Broadcasting Corporation (“Glendive”), licensee of KXGN-TV, Glendive, Montana, and applicant for a DTV construction permit for KXGN-DT, hereby requests a waiver and extension of the August 4, 2005 construction deadline for KXGN-DT to build a “checklist” DTV facility. *See DTV Channel Election Issues*, Public Notice, DA 05-1636 (June 15, 2005). As discussed in detail below, such an extension and waiver is warranted in this situation because of severe financial constraints beyond the applicant’s control and because the public interest would be served by such an extension.

Initially, KXGN-TV was assigned DTV Channel 15 in the DTV Table of Allotments. At Glendive’s request, the Commission subsequently amended the DTV Table to substitute Channel 10 for Channel 15. *See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations, (Glendive, Montana)*, Report and Order, 19 FCC Rcd 19455 (Video Div. 2004). As the Commission found in that proceeding, the substitution of DTV Channel 10 in lieu of DTV Channel 15 in the DTV Table is in the public interest as it will enable KXGN-TV to broadcast more efficiently and better serve its community of license. Following the amendment to the DTV Table, Glendive submitted an application seeking a DTV construction permit for digital operations on Channel 10. *See* FCC File No. BPCDT-20041230ABJ. Presently, that

application for KXGN-TV's initial DTV construction permit remains pending before the Commission.

By its August 2004 Order, the Commission instructed stations that had not yet received an initial DTV construction permit, such as KXGN-DT, to build a "checklist" digital facility by August 4, 2005. *See Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, FCC 04-192, at ¶ 110 (2004). Checklist facilities are defined as facilities that are equal to or less than the facilities allotted to the station by the DTV Table.

As the Commission is aware, KXGN-TV is located in the Glendive, Montana market, which, according to Nielsen Media Research, is the smallest television market in the country, ranked number 210 out of 210 Nielsen markets. KXGN-TV is the only television station in the Glendive market. Nielsen estimates that the market has approximately 5,000 television households and a population of merely 12,000 people.¹ The extremely small nature of the Glendive market, and its position as the 210th market, puts KXGN-TV in a unique and tenuous financial position.

Glendive has researched the cost of a smaller DTV facility, however, given the station's financial situation, the cost of constructing a checklist facility at this time would exceed the station's financial resources. Attached hereto is an estimate from the equipment manufacturer Axcera that details the estimated costs for the purchase and installation of a smaller DTV facility for KXGN-TV in order to comply with the checklist build out deadline. As detailed therein, the estimated cost for such a facility is over \$70,000.² While Glendive has made a \$13,000 deposit with Axcera to ensure its future order, given its limited revenue, and the limited revenue potential in the nation's smallest television market, it cannot afford to purchase and install a smaller DTV facility at present, especially when it will also be faced near term with the full build-out costs for

¹ BIAfn Television Yearbook 2005 at p. 72 (2005).

² The attached cost estimate from Axcera was originally prepared for commonly owned television station KYUS-DT, Miles City, Montana. Following KYUS-DT's decision to surrender its paired DTV channel and flash-cut on its present channel (see FCC File No. BFRECT-20050210AGG), Glendive negotiated with Axcera to substitute KXGN-DT Channel 10 for KYUS-DT on the build-out estimate. Thus, the attached estimate from Axcera reflects the anticipated equipment needs and costs for the build-out of a checklist DTV facility for KXGN-DT.

the facilities specified in its construction permit. Glendive intends to modify its purchase order to reflect the full DTV facilities specified in its pending initial DTV construction permit to be built once KXGN-TV's DTV construction permit is granted.

Simultaneously herewith, Glendive has submitted to the FCC financial documentation reporting the company's revenues, operating expenses, and income for the past two years, which demonstrate the financial hardship facing KXGN-TV. Glendive has submitted its financial documentation to the Commission under separate cover pursuant to a request for confidentiality under Section 0.459 of the Commission's Rules. 47 C.F.R. § 0.459. The specifics of the station's financial situation are detailed further in the separate submission, which provides income statements for Glendive Broadcasting Corporation for the fiscal years ending September 30, 2003, and September 30, 2004, respectively.³ These income statements reflect the revenue and expenses for both KXGN-TV and co-owned and operated AM radio station KXGN(AM), as well as for Glendive Broadcasting Corporation as a whole.⁴ It is clear from these income statements that the company has registered a nominal profit during the preceding two-year period.⁵ If the commonly owned FM station is excluded, the AM/TV operation shows a large loss in both of the last two years. The cost of building a checklist DTV facility at this point exceeds the company's two years of income by a large multiple, which would put the station and the licensee in financial difficulty and make it virtually impossible to ever construct the digital facilities specified in the station's construction permit. Furthermore, given the extremely small size of the Glendive market, the low-penetration rate of television sets capable of receiving DTV signals, the impending need to construct full digital facilities, and the company's current financial situation, Glendive does not believe it is feasible to obtain financing for a checklist digital facility at this time.

³ The Commission has previously recognized the unique economics of this very small market, recognizing the financial exigencies that justified the combined AM-FM-TV operation in Glendive. Those same exigencies compel a recognition that forcing the company to go through the motions of building a checklist facility will imperil its ability to ultimately construct a full digital facility.

⁴ In addition, Glendive owns the stock of Magic Air Communications, which operates FM station KDZN(FM), Glendive, Montana, which is reflected in the statements. Given that the AM and TV stations share studio space, facilities, and employees, and jointly sell their advertising time, the statements apportion certain administrative expenses evenly between the two stations.

⁵ These are the latest available financial statements for the company.

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Based on the station's financial hardship, Glendive submits that good cause exists for an extension and waiver of the checklist construction deadline. Previously, the Commission has granted waivers of digital construction deadlines based on showings of financial hardship. *See, e.g., DTV Build-out Requests for Extension of the Digital Television Construction Deadline Commercial Television Stations*, 20 FCC RCD 5773 (2005); *DTV Build-out Requests for Extension of the Digital Television Construction Deadline Commercial Television Stations*, 19 FCC 10790 (2004).

While Glendive is committed to the DTV transition and takes its obligations as a licensee seriously, at present, the station cannot afford to build a checklist facility. As permitted by the Commission's rules, KXGN-TV will continue to pursue its pending application for a construction permit for a full-power digital station, and will work to construct such facilities as the DTV transition proceeds. *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, FCC 04-192, at ¶ 113 (2004).

If there are any questions concerning this request, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brendan Holland", written in a cursive style.

Brendan Holland

cc: Shaun Maher (via hand delivery)

Enclosure

Quotation B-8494-1
May 6, 2003

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KYUS-DT

50W HIGH BAND VHF DTV TRANSMITTER

ITEM	QTY	DESCRIPTION	UNIT PRICE	NET PRICE
1	1	DT-418A 50W Avg. Solid State High Band VHF Digital Transmitter Utilizes the DT1B, 8-VSB modulator. Includes cabinet and FCC mask filter. Channel 13.	\$45,000	\$45,000

Discount: \$11,250
Total Price: \$33,750

CUSTOMER SELECTED OPTIONS

ITEM	QTY	DESCRIPTION	UNIT PRICE	NET PRICE
1	1	BCL-115 120 VAC Surge Protector	\$225	\$225

Total Price: \$225

ENCODING PACKAGE

ITEM	QTY	DESCRIPTION	UNIT PRICE	NET PRICE
1	1	Tandberg 5710 SD Encoder	\$20,500	\$20,500

Net Price: \$20,500

INSTALLATION

ITEM	QTY	TRANSMITTER INSTALLATION	UNIT PRICE	NET PRICE
1	1	System Installation and Proof of Performance See "Installation Description - Solid State Transmitter" for details.	\$7,000	\$7,000

Estimated Installation Total \$7,000

KXGN-DT INSTALLED TRANSMITTER PACKAGE TOTAL: \$61,475

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KYUS-DT

SCALA ANTENNA

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	Scala TVO-4 Antenna 4 Bay - Omni-directional Pattern - Horizontally Polarized Gain 3.0 dB 50 Ohm, Female Type "N" Input - 100 Watts Power Rating Channel 13	\$3,366	\$3,366

Subtotal: \$3,366
Less Discount: \$337
Net Price: \$3,029

ANDREW TRANSMISSION LINE

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
250	Andrew HJ7-50A 1-5/8" Air Dielectric Helix	17.20	\$4,300.00
2	H7PNF N Female Connectors	\$297.00	\$594.00
2	HJ7 Connector Fee	25.00	\$50.00
7	42396A-2 Cable Hangers (1 kit/30 feet)	37.10	\$556.50
3	204989-4 Grounding Kits	31.35	\$94.05
2	24312A Hoisting Grip (1 /200 feet)	49.44	\$98.88
2	L4A-PNMNM-6 Jumpers	\$101.80	\$203.60
1	40656-2 Wall Feed Through	75.00	\$75.00

Subtotal: \$5,972.03
Less Discount: \$1,792.03
Net Price: \$4,180.00

ANDREW PRESSURIZATION SYSTEM

QTY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	MT050-81015 Automatic Dehydrator with Low Pressure Alarm	2,199	\$2,199

Subtotal: \$2,199
Less Discount: \$440
Net Price: \$1,759

Antenna System Total: \$8,968

KYUS-DT PROJECT TOTAL: \$70,443